IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 16TH NOVEMBER 2006 / 25TH KARTHIKA 1928

Crl.MC.No. 2340 of 2004-B

CMP.6578/2003 of JUDL.MAGISTRATE OF FIRST CLASS-I, CHENGANNUR

.....

PETITIONER:

T.G. MATHEW, AGED 56 YEARS,
S/O. LATE GEE VARGHESE, THADATHILETHU VEETTIL,
CHERIYANAD WEST MURI, CHERIYANAD VILLAGE,
CHENGANNUR TALUK, ALAPPUZHA DISTRICT.

BY ADV. SRI.M.P.KRISHNAN NAIR

RESPONDENTS:

----

1. STATE OF KERALA, REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, KOCHI-31.

2. O.T. JAYAMOHAN, AGED ABOUT 45,
S/O. KESAVAN NAIR, PANCHAVADI HOUSE,
PADINJATU MURI, CHERIYANADU VILLAGE,
CHENGANNUR TALUK.

BY ADV. SRI.K.M.SATHYANATHA MENON
SRI.V.MANOJ KUMAR
PUBLIC PROSECUTOR MR. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 20/11/2006, THE COURT ON 16/11/2006 PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.M.C.NO.2340 OF 2004

DATED THIS THE 16TH DAY OF NOVEMBER 2006

ORDER

The petitioner, who is the accused in Crime No.694/2003 of Chengannur police station with respect to the offence under Sections 341, 294(b) and 506(i) of the Indian Penal Code, has sought for getting the proceedings quashed. It is submitted that the allegations made are false and frivolous and the deliberated concocted in order to harass and victimize the petitioner as the petitioner has instituted a number of cases before the Munsiff Court and the Magistrate's Court against the second respondent/de facto complainant. The present complaint was forwarded to the police under Section 156(3)Cr.P.C.and the final report has been filed and the petitioner has been implicated. The allegation is that on 13-3-2003 at about 11.30 a.m. in the premises of the Munsiff Court wherein the Adalat was being conducted, the petitioner caught hold of the shirt collar of the de facto complainant and abused him. The petitioner has also listed in the petition the number of cases instituted by him against the de facto complainant and others. It is submitted that the de facto complainant is an elected member

of the Panchayat. It is submitted that the petitioner was working in Saudi Arabia as Financial controller for about 24 years. It is further submitted that the de facto complainant was on inimical terms with the petitioner as the de facto complainant had approached him to take an insurance policy for a sum of Rs.10 lakhs. He declined to take policy. But his son subscribed to the policy to the tune of Rs.10 lakhs. Subsequently after three months, the son discontinued remitting the premium. The de facto complainant is under his impression that it is due to the instigation and at the instance of the petitioner that the son of the petitioner defaulted to remit for the policy. It is also alleged that the de facto complainant and others had attempted to trespass into the property of the petitioner to widen the pathway through the property of the petitioner. It is the case of the petitioner that the de facto complainant and others made various attempts to grab his property. It is also submitted that the complaint has been filed after about a week after the alleged incident which is indicative of deliberation and after thought. The de facto complainant had not approached the police which is the normal human conduct.

2. I find that the allegations in the complaint are that the petitioner/accused caught hold of the shirt collar of the de facto complainant and abused him with filthy language and attempted to kick on

the naval portion of the de facto complainant and threatened him. It is pointed out by counsel for the petitioner that just the fact that despite the incident is alleged to have happened in the court premises, no court officials or other responsible persons have witnessed the incident would indicate its falsity. It is submitted that the witnesses cited are the accused in the case instituted by the petitioner. It appears from the circumstances of the case that the allegations appeared to be not that serious so as to be subjected to a trial before the court inview of Section 95 I.P.C. The harm allegedly caused appears to be slight.

In the result, the proceedings pending before the Judicial First Class Magistrate Court-I, Chengannur in pursuance of Crime No.694/2003 is herewith quashed. The Crl.M.C.is allowed.

K.R.UDAYABHANU, JUDGE

ks.